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R E M A R K S

Claims 1-18 were rejected under 35 USC 102 as being anticipated by Jorgensen, US Patent 6,862,622. Applicants respectfully traverse.

Claim 1 specifies a step of

assigning the packet to one of a preselected of QoS treatments, based to an attribute the packet, in accordance with a set of rules that was created pursuant to a statistical analysis of traffic in the network.

The Examiner asserts that this step is taught by the reference, and in support of the assertion the Examiner cites the passage at col. 15, lines 9-17, which states:

Currently, there are several methods that can be used in wireline network devices to implement differentiated service classes. Example methods include traffic shaping, admission control, IP precedence, and differential congestion management. It is desired that an IP-centric wireless broadband access system use all of these methods to differentiate traffic into classes of service, to map these classes of service again a QoS matrix, and thereby to simplify the operation and administration of the QoS mechanism.

Admittedly, this passages teaches the notion mapping QoS to classes of service, and teaches some of the methods that may be used to implement different classes of service.

What it does NOT teach, however, is

- (a) assigning a packet to one of preselected QoS treatments (or classes of service) based on an attribute of the packet;
- (b) that such assigning is in accord with a set of rules, or
- (c) that the rules were created pursuant to statistical analysis of traffic in the network.

It is noted that the lack of any of the above identified three notions suffices to take the claim outside the scope of 35 USC 102, and the lack of all three of theses notions compels the conclusion that claim 1 is not anticipated by the Jorgensen reference.

Claims 2-12 depend on claim 1 and are, therefore, believed to also not be anticipated by the Jorgensen reference.

The same citation is given by the Examiner in connection with independent claims 13 and, respectfully, applicants submit that the same analysis and the same conclusion applies to claim 13.

Independent claim 14 is directed to the creation of the aforementioned rules. The Examiner asserts that the claim 14 method is taught by the reference, and in support of

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this assertion that Examiner points to the passage at col. 15, lines 9-17 and to a passage at col. 58 line 58 through col. 59, line 2. Applicants respectfully traverse.

It is respectfully submitted that the reference completely fails to teach a method for developing a corpus of data for creating a set of rules. As can be clearly seen in the above-quoted col. 15, lines 9-17 passage, there is no teaching of any use of a corpus of data, and there is certainly no teaching of a method for creating a corpus of data.

Further, while the cited col. 15, lines 9-17 passage does mention that different classes of service are possible to implement, there is no teaching of any step of selecting a set of service classes (which is the first step in the claim 14 method).

Additionally, claim 14 specifies a step of selecting a set of applications of a particular kind, but the cited col. 15, lines 9-17 passage mentions no applications at all.

Additionally still, claim 14 specifies the steps of

- of selecting features;
- capturing traffic in a training network, which traffic belongs to applications that are included in said set; and
- developing statistics for said set of features for each of said classes from said traffic in said training network.

In connection with these three steps the Examiner points to the passage at col. 58, line 58 through col. 59, line 2, which states:

FIGS. 12M, 12N and 12O depict an exemplary ODB 1242 in detail. This field is used to store information regarding the connection between the wireless base station 302 and the CPE station 294. ODB 1242 includes preamble 1234a (including link integrity data), subscriber ID 1234b (identifies which CPE station 294 is making the reservation request), system state 1248a (information about the status of the CPE station 294), performance data 1248b (how full the buffer statistics, cpe processor performance statistics, system state), antenna data 1248c (information pertaining to the antenna), CRC 1234e (error checking information) and synchronization pattern 1248d (error checking information).

FIGS. 12M, N and O, to which this passage pertains, illustrate an exemplary operations data block of an upstream transmission subframe. This passage clearly does not teach a step of selecting features. This passage also does not teach capturing any traffic generally, certainly it does not teach capturing the traffic of the selected applications. It also does

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not mention any training network. Lastly, this passage does not each developing statistics for the set of selected features.

The mention of "buffer statistics" and "cpe processor statistics" that is found in the cited passage relates to *performance data of the connection* between the wireless base station 302 and the CPE station 294, and does not pertain to features that can characterize "classes from said traffic in said training network."

Thus, it is respectfully submitted that there is no teaching in the reference of a method for developing a corpus of data for creating a set of rules, and also, none of the individual steps that are specified in claim 14 are taught in the reference. Therefore, it is respectfully submitted that claim 14 is not anticipated by the reference.

In connection with claim 15 (which is amended herein to clarify its dependence on claim 14), the Examiner asserts that the step of "selecting one or more packet attributes" is "inherent to level 2/3 routing and switching." Applicants suspect that the Examiner meant to refer to **layer** 2/3 routing and switching rather than **level** 2/3 routing and switching (because there is no mention in the reference of a level routing or switching). Applicants also respectfully submit or regardless of whether it is level, or layer, 2/3 routing and switching, what is inherent to such routing and switching is immaterial, because routing and switching are quite different from a method for developing a corpus of data for creating a set of rules.

As for the remaining claim 15 steps, the Examiner again cites the col. 58 line 58 through col. 59, line 2 passage, and applicants respectfully submit that the analysis of this passage, as presented above in connection with claim 14, applies to claim 15. This leads to the conclusion that none of the claim 15 steps are taught by the reference and, consequently, applicants respectfully submit that claim 15 as well as claims 16-18, which depend on claim 15, are not anticipated by the reference.

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In light of the above amendments and remarks, applicants respectfully submit that all of the Examiner's rejections have been overcome. Reconsideration and allowance are respectfully solicited.

Respectfully,
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